

DM 05-109

NORTHERN UTILITIES, INC.

Violations of Underground Utility Damage Protection Program

**Order Granting Request for
Opportunity to Show Cause Why Determination of
Violations and Penalties Should be Changed**

ORDER NO. 24,527

October 14, 2005

On January 7, 2005, Northern Utilities, Inc. (Northern) telephonically notified the Safety Division of the New Hampshire Public Utilities Commission (Commission) of damage to underground facilities that had taken place on January 7, 2005 at Ashworth Avenue and B Street in Hampton, New Hampshire. On January 14, 2005, Northern filed a written report of the January 7, 2005 damage at Ashworth Avenue and B Street.

On March 16, 2005, Northern telephonically notified the Commission of underground facility damage that had taken place on March 16, 2005 at 17 F Street in Hampton. On April 15, 2005, Northern filed a written report of the March 16, 2005 damage at 17 F Street in Hampton.

Both notifications were made pursuant to the Commission's Underground Utility Damage Prevention Program (Dig Safe), as set forth in N.H. Code Admin. Rules Puc Chapter 800. The Director of the Safety Division has been designated to make determinations regarding violations of the Dig Safe program.

After conducting an investigation, pursuant to PART Puc 807 ENFORCEMENT PROCEDURES, the Safety Division issued on May 4, 2005 a Notice of Probable Violation (NOPV) Control No. 05035PV with respect to the 17 F Street, Hampton damage. At the request

of Northern pursuant to Puc 807.03, the Safety Division conducted an informal conference on May 18, 2005. The Safety Division thereafter issued on May 23, 2005 Notice of Violation (NOV) Control Nos. 05003V (concerning the January incident) and 05035V (concerning the March incident).

In 05003V, the Safety Division found that Northern had failed to indicate the width of its underground facility as required by Puc 806.03(a) and, accordingly, a civil penalty of \$1,000 was assessed pursuant to RSA 374:55. In 05035V, the Safety Division found that Northern had failed to mark clearly the locations of its underground facilities after receipt of a notice of proposed excavation in violation of RSA 374:53 and, accordingly, a civil penalty of \$1,500 was assessed pursuant to RSA 374:55.

Pursuant to Puc 807.05(a)(2), Northern filed a timely request for a hearing as to both Notices of Violation on May 27, 2005. In accordance with Puc 807.06(a), the Commission hereby provides Northern an opportunity to show why the determinations and subsequent penalties made by the Commission's designated staff should be changed.

Based upon the foregoing, it is hereby

ORDERED, that Northern Utilities appear before the New Hampshire Public Utilities Commission at its offices at 21 South Fruit Street, Concord, New Hampshire at 9:00 a.m. on November 1, 2005 to show cause why the determinations made by the Commission's designated staff that Northern Utilities, Inc. should not be held liable for penalties up to \$2,500 and expenditures to collect the penalty pursuant to RSA 374:55; and it is

FURTHER ORDERED, that the Executive Director shall send a copy of this Order by first class mail, postage prepaid, to Northern Utilities, Inc., which should be prepared to appear at the hearing and provide such records and testimony as are pertinent to this matter.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of October, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Debra A. Howland
Executive Director and Secretary